

Notice of Exemption

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To:

Office of Planning and Research
For U.S. Mail:

P.O. Box 3044
Sacramento, CA 95812-3044

Street Address:

1400 Tenth Street
Sacramento, CA 95814

From:

Department of Fish and Wildlife
Ecosystem Conservation Division
P.O. Box 944209
Sacramento, CA 94244-2090

**SUBJECT: Filing of Notice of Exemption pursuant to Public Resources Code § 21108**

State Clearinghouse Number: 2019049121

Project Title: Minor Amendment Number 4 to Incidental Take Permit for Long-Term Operation of the State Water Project in the Sacramento-San Joaquin Delta (2081-2019-066-00)

Project Location: Sacramento River downstream of the confluence with the Feather River, the Sacramento-San Joaquin Delta and Suisun Marsh in Solano, Sacramento, Yolo, San Joaquin, and Contra Costa Counties.

Project Description: The discretionary approval by California Department of Fish and Wildlife (CDFW) is the issuance of the incidental take permit (ITP) amendment identified above. The ongoing operations of the State Water Project in the Sacramento-San Joaquin Delta and Suisun Marsh are expected to result in incidental take and impacts to habitat of Longfin Smelt (*Spirinchus thaleichthys*), Delta Smelt (*Hypomesus transpacificus*), winter-run Chinook Salmon (*Oncorhynchus tshawytscha*), and spring-run Chinook Salmon (*Oncorhynchus tshawytscha*). Longfin Smelt and spring-run Chinook Salmon are designated as threatened species under the California Endangered Species Act. Delta Smelt and winter-run Chinook Salmon are designated as endangered species under the California Endangered Species Act.

On May 10, 2021, Governor Gavin Newsom issued an Emergency Proclamation as a result of the lack of precipitation within California, warm temperatures, and extremely dry soils depleting the expected runoff water from the Sierra-Cascade snowpack in water years 2020 and 2021. The May 10, 2021 Emergency Proclamation directed the State Water Resources Control Board (SWRCB) to consider modifying requirements for reservoir releases or diversion limitations to conserve water upstream later in the year in order to protect cold water pools for salmon and steelhead, improve water quality, protect carry over storage, or ensure minimum health and safety water supplies. On October 19, 2021, in an additional Emergency Proclamation, Governor Newsom stated that as 2021 continued, "sustained and extreme high temperatures have increased water loss from reservoirs and streams, increased demands from communities and agriculture, and further depleted California's water supplies," expanded the scope of the Emergency Proclamation statewide, and maintained his earlier orders and their provisions in full force and effect. On March 28, 2022, Governor Newsom issued an additional Emergency Proclamation maintaining the orders and provisions of his May and October 2021 proclamations in full force and effect.

On March 18, 2022, the Department of Water Resources and U.S. Bureau of Reclamation submitted a Temporary Urgency Change Petition (TUCP) to the SWRCB, requesting changes to certain flow and salinity requirements of Water Rights Decision 1641 (D-1641) from April through June, 2022. DWR also submitted an application for a minor amendment to the ITP, requesting changes to changes to Section 2.2 of the Project Description. Specifically, Permittee requested to change the description of Project operations for the April – June, 2022 time period to incorporate the TUCP's modifications to Water Rights Decision 1641 (D-1641), as subsequently approved by the SWRCB. The SWRCB conditionally approved the TUCP on April 4, 2022. Minor Amendment 4 to the SWP ITP adds Section 2.2.2 to the Project Description as requested by DWR to incorporate changes to Delta outflow and salinity standards in D-1641 from April 4 – June 30, 2022, as approved by the SWRCB.

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Public Agency Approving Project: CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

Person or Public Agency Carrying Out Project: California Department of Water Resources

Exempt Status:

- Statutory Exemption. California Code of Regulations, title 14, section 21080(b)(3) and 15269(a), Governor's Proclamation of State of Emergency, May 10, 2021
- Categorical Exemption.

Reasons why project is exempt: The May 10, 2021 Emergency Proclamation directed the SWRCB to consider modifying requirements for reservoir releases or diversion limitations to conserve water upstream later in the year in order to protect cold water pools for salmon and steelhead, improve water quality, protect carry over storage, or ensure minimum health and safety water supplies. For purposes of carrying out or approving this directive, paragraph 11 of the same proclamation suspended the environmental review by state agencies required by CEQA, and these provisions and directives have been maintained in full force and effect by subsequent proclamations and orders, including Executive Order N-7-22, issued March 28, 2022.

CDFW Contact Person: Brooke Jacobs, Environmental Program Manager; (916) 903-6426

DocuSigned by:

 Signature: FA83F09FE08945A... Date: 4/5/2022

Date received for filing at OPR: _____